

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15711 of 2006

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01.8.2006
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Between:

I.Sudarshan Rao, S/o.Seshaiah

And others

... Petitioners

AND

The Joint Collector-II, Ranga Reddy District at Hyderabad

And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15711 of 2006

ORDER:

The petitioners are owners of the agricultural land admeasuring Acs.30.31 guntas in survey No.80 of Hafeezpet Village of Serilingampally Mandal in Ranga Reddy District. They statedly purchased the said land from the Decree Holders in C.S.No.14 of 1958 on the file of this Court. There was protracted litigation with regard to the property in survey No.80 between the Government of Andhra Pradesh and the Decree Holders in C.S.No.14 of 1958. The Decree Holders as well as the petitioners herein got the property in survey No.80. There is no dispute that ultimately the property was settled in favour of the petitioners. Thereafter the petitioners herein through their General Power of Attorney (GPA) Holder approached the Mandal Revenue Officer, Serilingampally Mandal (MRO), second respondent herein, for grant of mutation. By proceedings dated 10.2.2006, the MRO granted mutation in favour of the petitioners in respect of the land in survey No.80 admeasuring Acs.30.31 guntas. However, the Revenue Divisional Officer, Chevella Division (RDO), issued show cause notice to the petitioners in purported exercise of power under Section 5(5) of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (RoR Act, for brevity) purportedly acting in accordance with circular letter addressed by the District Collector, Ranga Reddy District, with regard to the alleged contravention of the provisions of Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act, for brevity). The petitioners assailed the said notice of the RDO in a writ petition being W.P. No.11637 of 2006. By an order dated 07.7.2006, this Court set aside the same holding that Section 5(5) of RoR Act does not confer *suo motu* powers on the RDO to entertain an appeal. Thereafter, the Joint Collector-II – first respondent herein; issued the impugned notice to the petitioners and also suspended the proceedings of the MRO dated 10.2.2006 whereunder mutation was granted to the petitioners. In the impugned show cause notice, the petitioners were asked to appear for hearing on 08.8.2006. The impugned notice is challenged on many grounds.

When the matter was initially heard on 28.7.2006, it was *inter alia* contended by the learned Counsel for the petitioners that the Joint Collector-II exercised *suo motu* revisional jurisdiction under Section 9 of RoR Act, as per the dictates of the Government in the D.O. letter addressed by the Special Chief Secretary to the Government to the Joint Collector. A Xerox copy of the same bearing D.O.Lr.No.66996/UC.II(2)/ 97-29, dated 20.8.2005 was also filed. Therefore, the matter was adjourned to enable the learned Assistant Government Pleader for Revenue (General) to produce relevant file from the Office of the Joint Collector-II.

The file has been produced. After perusing the same and hearing learned Government Pleader for Revenue, this Court is convinced that the genesis for issue of the impugned show cause notice is certainly not the D.O. Letter addressed by the Special Chief Secretary on 20.8.2005. The Joint Collector exercised *suo motu* powers under Section 9 of RoR Act in issuing the show cause notice.

Learned Counsel for the petitioners *inter alia* contends that the petitioners were granted mutation by the MRO in accordance with the directions of the Government in memo dated 05.11.2004 subject to the provisions of ULC Act and, therefore, the impugned show cause notice is totally without application of mind. Secondly, he would urge that even if the land falls within the urban agglomeration or peripheral area as per the ULC Act, there is no prohibition under RoR Act for making entries in the record of rights or for changing such entries by appropriate recording authority. Lastly, it is submitted by the learned Counsel for the petitioners that the RDO earlier passed orders on 31.5.2006 as directed by the Joint Collector/Collector, which would only show that the Joint Collector is predetermined to deny the mutation/change in the entries of revenue records and ultimately defeating the rights of the petitioners, which have been upheld by this Court in the relevant proceedings in C.S.No.14 of 1958.

Per contra, learned Government Pleader for Revenue refers to **Special Director v Mohd. Ghulam Ghouse**^[1] and submits that the matter is at the stage of show cause and, therefore, a writ petition would not lie. He also refuted the other submissions made by the learned Counsel for the petitioners.

After giving anxious consideration to the background of the case and considering the rival submissions, this Court is of considered opinion that if at the stage of show cause notice in a matter of this

nature, this Court adjudicates the matter, the same would be detrimental to the interest of both the parties. It is now axiomatic that ordinarily a writ petition would not lie at the stage of show cause notice. Applying the same principle, this Court is not inclined to consider the questions raised by the petitioners. However, by impugned notice, the proceedings of the MRO dated 10.2.2006 were suspended *suo motu*, and reading of Section 9 of RoR Act and its proviso would show that even while passing an order pending the *suo motu* revision, the Joint Collector is not competent to pass any order adversely affecting any person without giving an opportunity of making representation. This Court is, therefore, of considered opinion that the impugned insofar as it suspends the proceedings of the MRO dated 10.2.2006, cannot be sustained.

In the result, for the above reasons, this writ petition is disposed of. The impugned notice insofar as it suspends the proceedings of the MRO is set aside. The petitioners are given liberty to submit explanation to the show cause notices and raise all grounds before the Joint Collector-II. As and when the enquiry is taken up, the Joint Collector shall consider all questions raised by the learned Counsel for the petitioners and pass appropriate reasoned orders within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

(V.V.S.RAO,J)

August 01, 2006.
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[\[1\]](#) (2004) 3 SCC 440